

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

<b>Ferguson Landscape Corporation,</b>  Petitioner-Appellant,  v.  <b>Dickinson County Board of Review,</b>  Respondent-Appellee.	<b>ORDER</b>  <b>Docket No. 09-30-0704</b> <b>Parcel No. 07-08-300-008</b>  <b>Docket No. 09-30-0705</b> <b>Parcel No. 07-08-300-012</b>  <b>Docket No. 09-30-0706</b> <b>Parcel No. 07-08-153-013</b>
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On May 14, 2010, the above captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, Ferguson Landscape Corporation (Ferguson), was self-represented, and requested the appeal proceed without a hearing. Beyond the certified record, it did not offer any additional evidence for consideration. The Dickinson County Board of Review designated Assistant County Attorney Lonnie Saunders as its legal representative, and submitted evidence in support of its decision. The Appeal Board having reviewed the entire record, and being fully advised, finds:

***Findings of Fact***

Ferguson is the owner of three commercially classified properties all used for a single business purpose. Parcel 07-08-300-008 (Parcel 8), located at 3602 Highway 71 S, Spirit Lake, Iowa, is the largest of the three parcels and has the majority of the improvements which are part of a landscape/nursery business. Parcel 8 is a 3.017 acre site and has multiple structures built between 1984 and 2003. These structures are adjoined and create one large retail space with greenhouses and storage areas. There is 18,680 square feet of concrete parking. It is unclear if this parking area is

contained solely on Parcel 8, or if it also extends onto the remaining adjoining parcels which complete this appeal. The January 1, 2009, total assessment for Parcel 8 is \$1,369,700, allocated as \$400,200 in land value and \$969,500 in improvement value.

Parcel 07-08-153-013 (Parcel 13), located on Highway 71 S., Spirit Lake, Iowa abuts Parcel 8 on the east lot line. This is the smallest of the three parcels which make up the landscaping business. Parcel 13 has .456 acres and has two metal pole buildings which contribute to the overall business. The two structures were built in 1988 and 1995, are adjoining and combined have a total building area of 6810 square feet. The front one-third (roughly) of this total structure is used for display and retail. The remainder is used for storage. The January 1, 2009, total assessment for Parcel 13 is \$154,500, allocated as \$69,100 in land value and \$85,400 in improvement value.

Parcel 07-08-300-012 (Parcel 12), located on Highway 71 S., Spirit Lake, also abuts Parcel 8, sharing its western lot line. This parcel has 1.12 acres and although the property record card does not show any improvements, according to Patricia Dodds, the Dickinson County Assessor, part of the greenhouse located on Parcel 8, extends across this lot. The January 1, 2009, total assessment for Parcel 12 is \$114,900, all of which is allocated to the land.

Ferguson protested to the Dickinson County Board of Review regarding the 2009 assessment for all three parcels as a single unit. The total assessment of the single-unit business is \$1,639,100, allocated as \$584,200 in land value and \$1,054,900 in improvement value. The protest was based on the following grounds: 1) There is an error in the assessment under Iowa Code section 441.37(1)(d) and stating the error as a high assessment, and; 2) there has been a downward change in the value since the last assessment under sections 441.37(1) and 441.35(3). The claim of error is essentially a claim of more than authorized by law under section 441.37(1)(b). Ferguson asserted the total value of the parcels was \$1,000,000. The Board of Review denied the petition citing insufficient evidence presented to prove the assessment is excessive.

Ferguson then appealed to this Board, asserting an error in the assessment and also that the assessment is not equitable compared with assessments of other like property in the taxing district. Ferguson did not claim equity to the Board of Review and we will not consider this claim. Ferguson's plain language statement in its appeal to this Board is "this property is over assessed." Ferguson continues its market value claim to this Board based on the grounds of error and its plain language statement, asserting the total value of the properties is \$900,000, allocated as \$500,000 in land value and \$400,000 in improvement value. We will only consider the ground of assessed for more than the value authorized by law.

Ferguson requested an oral hearing before the Board of Review. According to the May 6, 2009, Board of Review minutes, oral petitioners were heard starting at 8:30 in the morning and continuing every fifteen minutes ending at 11:45. It is not noted whether the end time is a.m. or p.m. Each person was given ten minutes to present arguments. No minutes were given of the argument, and only a summary statement of the Board's decision is provided. Board minutes for all three parcels simply state: "The Board reviewed the petition, property record and aerial. Moved by Archie to deny, seconded by Ray. All ayes."

Ferguson has not offered any new evidence to this Board. There is an undated and unsigned statement in the certified record, and it is not known whether this was presented to the Board of Review or if this is new to this Board. The statement indicates 9640 square feet of greenhouse space and 3500 square feet of storage and office space have been removed, and an assertion that the removal of these buildings should reduce the assessment by \$250,000. Additionally, the statement indicates of the remaining 40,000 square feet of greenhouse space, the roof has less than a five year life out of a fifteen year life expectancy, and this will be "very costly to replace." The statement also asserts there has been a 30% reduction in commercial property values. Based upon these factors, the author contends the property to be worth \$900,000. It is also noted that the "assessment should be close to the



sale price of the property.” However, there is no indication this property has recently sold, or for what amount.

At the Board of Review, Ferguson offered a printed summary sheet dated April 20, 2009, and titled “Dickinson County Real Estate Trial Balance.” This is a spreadsheet of sorts, with nineteen parcels noted although six have been crossed off. The spreadsheet lists the district, parcel number, name, class, land value, building value, dwelling value, total value and unit. Four of the parcels are classified as agricultural compared to the subjects’ commercial classification. All of the parcels presented on the spreadsheet have the name Rachel Faye Family LLL. There are personal, handwritten notations on the spreadsheet but no explanation provided regarding those notations. There is also a handwritten statement, as follows: “The most over assessed properties are 10 units of aprox 1A. No water-sewer-or power not even an access to UN.4 12, it is just an out lot. Just over 1A farmable.” (sic).

Additionally, there is a handwritten spreadsheet labeled Ferguson Landscape Corp. The first section of this spreadsheet under the heading Retail Store Property lists three parcels, which are the subject parcels. These three parcels are identified as M, N, and O and report a partial parcel number, legal address, and the current assessed value for each parcel with a total value summation. There is a final column labeled “today’s value” and \$1,000,000 noted as the total value for these three combined parcels. This is followed by a second heading titled “Block 1 Ferguson Business Park,” which identifies eight additional parcels marked as P thru V, and X. Again, a partial parcel number is presented along with a legal description, (assumed) current assessment and an assertion of today’s value. There are some other notations on this document, and it is unclear who authored them or what they mean. There is no analysis presented to this Board which would identify these properties as comparable. It is unknown if the sites are similar in size and location or if these properties have any improvements. There is no indication these properties have sold or what their indication of market value is in comparison to the subject property.

The Board of Review provides a Summary of Ferguson Landscape Corporation Property within the evidence submitted to this Board in support of its position. The summary describes the property as follows: "The property is on S. Hwy 71, Spirit Lake, Iowa (Exhibit A). This business has the main retail store with additions and greenhouse attached, another large greenhouse, a metal storage building, a metal pole storage building with retail in front (Exhibits B aka Docket 09-30-0706), and the lot which the large greenhouse extends onto (Exhibit C aka Docket 09-30-0705). The land has 430 front feet on Highway 71 with the depth 387 to 480 deep." The summary addresses Ferguson's concerns regarding the buildings which have been removed, stating "on the property card for parcel 0708300008 that the value dropped by \$129,300 from 2008 to 2009 values for the removal of buildings." (sic).

Regarding Ferguson's claim that commercial values are down 30%, the Board of Review submitted exhibits F and G showing commercial lots listed for sale by Ferguson Landscaping Corporation in the *Property of Lakes Multiple Listing Service, Inc.* book. A comparison of the listings from April 13, 2009, to July 27, 2009, shows none of "the lots have had the list price dropped and several of these lots belong to Ferguson Landscape Corporation." The Board of Review also claims exhibit E, which is a list of sales used for 2009 equalization, does not show a decline in commercial property values.

The Board of Review submitted three vacant lots, all sold by Ferguson Landscape Corporation, which occurred between June 2004 and May 2005. These three lots had sales prices ranging from \$1097.80 to \$1297.58 per front foot. According to the summary, the assessed value for land on Highway 71 South with highway frontage has a base front foot of \$1200 per foot. We note the average of the three lot sales previously mentioned is \$1192.13, or roughly \$1200 per front foot. The Board of Review states that no sales were found with similar buildings, and the subject building's were assessed using the IOWA REAL PROPERTY APPRAISAL MANUAL (2008) using normal or above normal condition for the retail and attachments.



Based upon the foregoing, the Appeal Board finds that insufficient evidence has been submitted by Ferguson to support its claim that its property is assessed at greater than market value.

### *Conclusions of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

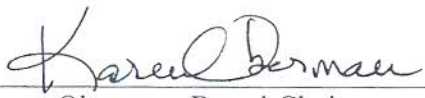
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277

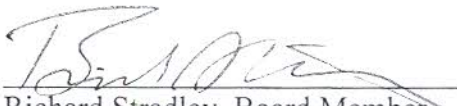
(Iowa 1995). Ferguson fails to provide this Board with evidence that the current assessed valuation is more than authorized by law (market value) and fails to provide support for what it believes is the correct value of the property.

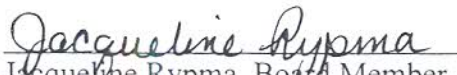
In the opinion of the Appeal Board, the evidence does not support the claim that the properties are assessed for more than the value authorized by Iowa Code section 441.21. Therefore, we affirm the January 1, 2009, assessments of the properties located at 3602 Highway 71 S, Spirit Lake, Iowa, as determined by the Dickinson County Board of Review.

THE APPEAL BOARD ORDERS the assessments of 3602 Highway 71 S, Spirit Lake, Iowa, as of January 1, 2009, set by the Dickinson County Board of Review, are affirmed.

Dated this 14 day of June, 2010

  
Karen Oberman, Board Chair

  
Richard Stradley, Board Member

  
Jacqueline Rypma, Board Member

Cc:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>6-14</u> , 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	